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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 ANTOLIN ANDREW MARKS,

10 Plaintiff,

11 v.

12 D. ORTEGA, *et al.*,

13 Defendants.

No. MC08-5045

ORDER

14 This matter comes before the Court *sua sponte*. On March 24, 2008, the
15 Honorable Franklin D. Burgess, United States District Court Judge, entered an order barring
16 plaintiff from litigating in this district unless he provides a “signed affidavit, along with the
17 proposed complaint, verifying under penalty of perjury that none of the issues raised in the
18 proposed complaint have been litigated in the past by the [p]laintiff.” Plaintiff was also barred
19 from proceeding *in forma pauperis* unless he shows that he is in imminent danger of serious
20 bodily injury or death. On August 1, 2008, the Clerk of Court received a complaint from Mr.
21 Marks. Dkt. # 4. No filing fee, application to proceed *in forma pauperis*, or affidavit was
22 included in the submission. The proposed complaint is now before the undersigned for review
23 pursuant to the terms of the bar order.

24 Plaintiff’s August 1, 2008, submission does not satisfy the March 24, 2008, bar
25 order. Plaintiff has not verified, under penalty of perjury, that the claims asserted have not
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ORDER

1 already been litigated. In addition, the proposed complaint is only marginally different from a
2 complaint submitted for review on July 9, 2008. Both complaints allege that plaintiff's Eighth
3 Amendment rights are being violated by defendants' failure to screen inmates for contagious
4 diseases and that enforcement of Disciplinary Code 221 infringes his First Amendment right to
5 petition and/or his right of access to the courts. For the reasons stated in Dkt. # 3 and the
6 Court's "Order Denying Motion for Reconsideration," plaintiff has failed to show that he is in
7 imminent danger of serious bodily injury or death.

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9 The new action submitted on August 1, 2008, shall not be permitted to proceed.
10 The Clerk of Court shall docket this order in MC08-5045. Neither the Clerk of Court nor
11 defendants need take any further action with regards to this matter.

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13 Dated this 18th day of August, 2008.

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16 Robert S. Lasnik
17 Chief Judge, United States District Court
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